



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Application No.: 10/664,975 **Examiner:** KARLS, Shay Lynn
Filing Date: September 22, 2003 **Art Unit:** 1744
First Inventor: Tsuyoshi Tokuda **Customer No.:** 23364
Attorney No.: TOKU3001/JJC/PMB **Confirm. No.:** 4973
For: ELECTRIC BLOWER AND VACUM CLEANER USING SAME

REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

INTRODUCTORY COMMENTS

This is responsive to the Office Action dated December 20, 2006 in the above application.

ELECTION

The applicant hereby provisionally elects with traverse part 1 (location of outer peripheral end portion of volute chamber) for further prosecution on the merits. The claims readable on the species of part 1 are claims 1, 4, 5, 12, 17- 20, 23, 24, and 26.

TRAVERSE

This provisional election is made with traverse. The Election requirement asserts on page 4 that "the inventions as claimed have materially different designs and have different functions or effects. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants."

While the claimed embodiments have materially different designs, the embodiments have the common feature of an electronic blower for improving a blowing efficiency.

Furthermore, while the Election requirement asserts that the application contains claims drawn to patentably distinct inventions, MPEP § 803 states the following:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

The examiner is required to show reasons why there would be a serious burden if the restriction is not required (MPEP § 808.02). Thus, the examiner must show (A) separate classification, (B) separate status in the art or (C) a different field of search (MPEP § 808.02).

Here, the examiner has provided no reasons why there would be a serious burden if the restriction is not required. The examiner has not identified a separate classification for the species. Nor has the examiner provided reasons why the species may have gained a separate status in the art. Finally, the examiner has not identified that a different field of search would be required for the different species. The examiner's only justification appears to be that claimed embodiments have materially different designs. However, as quoted above, MPEP §803 states that simply having claims drawn to distinct embodiments is not sufficient to establish a serious burden.

It is believed that the claims of the present application would have to be searched in just one sub-class, since the examiner has not identified any sub-classes pertinent to the different species. Furthermore, even if searching in additional sub-classes is required, since searches are commonly conducted electronically, a search may be made of a large number of, or theoretically all, subclasses in a class without substantial additional effort. Accordingly, the applicants respectfully traverse the Election requirement on the grounds that a search and examination of all of the claims in the present application would not place a *serious* burden on the examiner, whereas

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it would impose a serious burden on the applicant's to prosecute and maintain numerous separate applications.

Therefore, it is respectfully requested that the entire requirement to elect a single species be withdrawn, and that a full examination on the merits of claims 1, 4-20, 23, 24, and 26 be conducted.

Further, as stated on page 4 of the Election requirement, claims 1, 12, 17-20, 23, 24, and 26 are generic claims. Therefore, if any independent generic claim is allowable, all of the depending claims are allowable.

CONCLUSION

The applicant hereby reserves all rights to the non-elected subject matter.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicant's attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Date: January 19, 2007

Respectfully submitted,
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